

UNITED STATES PATENT AND TRADEMARK OFFICE
In RE APPLICATION OF:
Cloud

Serial No. 08/983,332
Filed: March 05, 1998

For: CIRCUIT APPARATUS AND
CONFIGURATION FOR
REFRIGERATOR SYSTEMS



) Examiner: M. Shulman
) Group Art Unit: 3744
)
)
)

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO
RECEIVE OFFICE ACTION**

Honorable Commissioner for Patents and Trademarks
ATTN: GROUP 3744 DIRECTOR'S OFFICE
Washington, D.C. 20231

RECEIVED

AUG 15 2003

TECHNOLOGY CENTER R3700

Dear Sir:

This petition is filed under 37 CFR 1.181 (a), (f) and MPEP 711.03 (c) requesting that the abandonment should be withdrawn due to the nonreceipt of the Notice of Allowance by both the Applicant and Applicant's attorneys. Applicant contends that application is not abandoned.

While speaking with Examiner Shulman, it was mentioned that the Notice of Allowance was mailed to an address, 120 E. Collins Ct., Louisville, KY 40214, which is the OLD address of the applicant, please see, attached Notice of Abandonment, listing incorrect address to which original Notice of Allowance was mailed. Also, no Notice of Allowance was mailed to the Attorney of Record, Mr. Daniel Stelter at Middleton & Reutlinger.

As a consequence, neither Applicant nor his Attorneys of record received the Notice of Allowance mailed January 24, 2000. The only information Applicant or his Attorneys received was the Notice of Abandonment mailed June 9, 2000, which was mailed to the undersigned Attorney.

Therefore, it is the goal of this petition to request that a new Notice of Allowance be issued to Middleton & Reutlinger, 2500 Brown & Williamson Tower, Louisville, KY 40202, who are the Attorneys of record. The Issue Fee and any Formal Drawings necessary will then be handled promptly.

As authority for this Petition, we cite *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971) where the court decided that a new Notice of Allowance should be mailed from the Patent Office due to the Applicant's attorneys not receiving the original Notice of Allowance.

As you can see on the enclosed Notice of Abandonment, the first Notice of Abandonment was mailed to Applicant's OLD address 1/24/00 and then to the Applicant's attorneys 6/9/00. The Notice of Allowance should have been mailed to the Attorney of record since the Notice of Abandonment was eventually mailed to the Attorney of record.

We are enclosing the following information to establish that there was sufficient information evidencing that Middleton & Reutlinger should have been the recipient for any and all correspondence from the Patent Office. We are also enclosing our docket record showing that if a Notice of Allowance would have been received, it would have been docketed in an appropriate fashion, to ensure timely payment of the issue fee and to attend to any other requirements of the Notice of Allowance.

Therefore, the following information is enclosed.

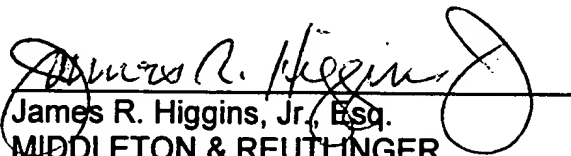
1. Transmittal form;
2. Petition Routing Slip;
3. Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action;
4. Revocation of Power of Attorney, Appointment of New Attorney;
5. Notice of Abandonment, mailed first to Applicant's old address on 1/24/00 and then to Daniel Stelter at Middleton & Reutlinger on 6/9/00;
6. Docket Record;
7. Return postcard evidencing receipt of above items

In summary, we are requesting that the abandonment of the above application be withdrawn due to the Applicant and Applicant's attorneys not receiving the Notice of Allowance, and therefore, the issue fee was paid nor were any formal drawings mailed in.

Please proceed with this Petition accordingly. Pursuant to 37 CFR 1.181(a), no fee is required.

Respectfully submitted,

Date: June 19, 2000


James R. Higgins, Jr., Esq.
MIDDLETON & REUTLINGER
2500 Brown & Williamson Tower
Louisville, Kentucky 40202
(502) 584-1135
Reg. No. 29,264



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO. 087983.332	FILING DATE 03/03/98	FIRST NAMED INVENTOR CLOUD	ATTORNEY DOCKET NO. 21856796001
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DANIEL C. STELTER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE KY 40202

QM61/0609

1703
305-0247 phone

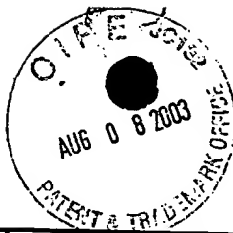
EXAMINER SHULMAN, M

ART UNIT 3744	PAPER NUMBER 10
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DATE MAILED: 06/09/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/983,332	03/05/98	CLOUD	R 21056/96001

RICHARD L CLOUD
120 E COLLINS CT
LOUISVILLE KY 40214

7542/0124

EXAMINER	
ART UNIT	PAPER NUMBER
3744	10

DATE MAILED: 01/24/00

NOTICE OF ABANDONMENT

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APR - 6 2003

This application is abandoned in view of:

- ☐ Applicant's failure to timely file a proper response to the Office letter mailed on _____ TECHNOLOGY CENTER 3700
- ☐ A response (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for response (including a total extension of _____ month(s)) which expired on _____.
- ☐ A proposed response was received on _____, but it does not constitute a proper response to the final rejection.

(A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC).

- ☐ No response has been received.
- ☒ Applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.

- ☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____.
- ☐ The submitted issue fee of \$_____ is insufficient. The issue fee required by 37 CFR 1.18 is \$_____.
- ☒ The issue fee has not been received.

- ☐ Applicant's failure to timely file new formal drawings as required in the Notice of Allowability.

- ☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____.

- ☐ The proposed new formal drawings filed _____ are not acceptable.

- ☐ No proposed new formal drawings have been received.

- ☐ The express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on _____ TECHNOLOGY CENTER R370

- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

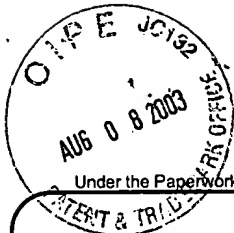
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a) upon the filing of a continuing application.

- ☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

- ☐ The reason(s) below:

Diane Terry
Allowed Files Branch
703-305-8203

Tom Hawkins 703-305-8263



PTO/SB/81 (06-03)

Approved for use through 11/30/2005. OMB 0651-0035

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**POWER OF ATTORNEY
and
CORRESPONDENCE ADDRESS
INDICATION FORM**

Application Number	08/983,332
Filing Date	03/05/1998
First Named Inventor	Richard L. Cloud
Title	Circuit Apparatus and ...
Art Unit	3744
Examiner Name	M. Shulman
Attorney Docket Number	ZI056/96001

I hereby appoint:

☒ Practitioners at Customer Number:

36536

PATENT TRADEMARK OFFICE

OR

☐ Practitioner(s) named below:

Name	Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to:

☐ The above-mentioned Customer Number:

OR

☐ The address associated with Customer Number:

OR

<input checked="" type="checkbox"/> Firm or Individual Name	H. Roy Berkenstock				
Address	1715 Aaron Brenner Drive				
Address	Suite 800				
City	Memphis	State	TN	Zip	38120-4367
Country	United States				
Telephone	901-537-1108	Fax	901-537-1010		

I am the:

☐ Applicant/Inventor.☒ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)**SIGNATURE of Applicant or Assignee of Record**

Name	Tube Ice				
Signature					
Date	7/23/03	Telephone			

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.31 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

04/21/98

Jc588 U.S. PTO

Please type a plus sign (+) inside this box → ☐PTO/SB/82 (11-86)
Approved for use through 6/30/99. OMB 0651-0035
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**REVOCATION OF POWER OF
ATTORNEY OR
AUTHORIZATION OF AGENT**

Application Number	08/983,332
Filing Date	DECEMBER 4, 1997
First Named Inventor	CLOUD
Group Art Unit	
Examiner Name	
Attorney Docket Number	ZI827/98002

I hereby revoke all previous powers of attorney or authorizations of agent given in the above-identified application:

☒ A Power of Attorney or Authorization of Agent is submitted herewith.

OR

☐ Please change the correspondence address for the above-identified application to:☐ Customer Number

OR

Place Customer
Number Bar Code
Label here

<input checked="" type="checkbox"/> Firm or Individual Name	DANIEL C. STELTER, ESQ.				
Address	MIDDLETON & REUTLINGER				
Address	2500 BROWN & WILLIAMSON TOWER				
City	LOUISVILLE				
Country	USA	State	KY	ZIP	40202
Telephone	(502) 584-1135	Fax	(502) 561-0442		

I am the:

☒ Applicant.☐ Assignee of record of the entire interest
Certificate under 37 CFR 3.73(b) is enclosed

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AUG 15 2003

TECHNOLOGY CENTER R3700

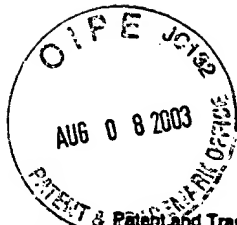
SIGNATURE of Applicant or Assignee of Record

Name	RICHARD L. CLOUD
Signature	<i>Richard L. Cloud</i>
Date	<i>16 Apr 1998</i>

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

04/21/98

jc588 U.S. PTO

Please type a plus sign (+) inside this box ☐ +

PTO/SB/81 (11-86)
 Approved for use through 6/30/99. OMB 0651-0035
 Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

POWER OF ATTORNEY OR AUTHORIZATION OF AGENT, NOT ACCOMPANYING APPLICATION

Application Number	08/983,332
Filing Date	DECEMBER 4, 1997
First Named Inventor	CLOUD
Group Art Unit	
Examiner Name	
Attorney Docket Number	ZI827/98002

I hereby appoint:

☐ Practitioners at Customer Number

OR

☒ Practitioner(s) named below:

Place Customer
 Number Bar Code
 Label here

Name	Registration Number
DANIEL C. STELTER, ESQ.	40,830
JAMES R. HIGGINS, JR., ESQ.	29,264
CHARLES G. LAMB, ESQ.	24,783
JAMES C. EAVES, JR., ESQ.	34,589

JOHN F. SALAZAR, ESQ. 39,353

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the Patent and Trademark Office connected therewith.

Please change the correspondence address for the above-identified application to:

☐ The above-mentioned Customer Number.

OR

<input checked="" type="checkbox"/> Firm or Individual Name	DANIEL C. STELTER, ESQ.		
Address	MIDDLETON & REUTLINGER		
Address	2500 BROWN & WILLIAMSON TOWER		
City	LOUISVILLE	State	KY
Country	USA	ZIP	40202
Telephone	(502) 584-1135	Fax	(502) 561-0442

I am the:

☒ Applicant.

☐ Assignee of record of the entire interest
 Certificate under 37 CFR 3.73(b) is enclosed

SIGNATURE of Applicant or Assignee of Record

Name	RICHARD L. CLOUD
Signature	<i>Richard L. Cloud</i>
Date	16 Apr. 1998

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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TECHNOLOGY CENTER R3700

Please type a plus sign (+) inside this box → ☐

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Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

PTO/SB/69 (12-97)

PETITION ROUTING SLIP

(Find the petition from the list and check the box in the heading above the petition)

Complete If Known

Application Number	08/983,332
Filing Date	03/05/98
First Named Inventor	Cloud
Group Art Unit	3744
Examiner Name	M. Shulman
Attorney Docket Number	ZK546/00000

☐ PETITIONS DECIDED BY PETITIONS OFFICE

- 301 Relating to Public Use Proceedings (37 CFR 1.292)
302 To make application special - prospective manufacture (37 CFR 1.102, MPEP 708.02)
303 To make special - infringement (37 CFR 1.102, MPEP 108.02)
304 Relating to the Filing/Issuance of Divisional Reissue (37 CFR 1.177)
305 To waive or suspend rules (37 CFR 1.183)
306 To expunge a paper from patent application or patent file (37 CFR 1.559)
307 Withdrawal of Attorney (37 CFR 1.36)
308 For access to application except re proceedings before Board (37 CFR 1.14, MPEP 103.104)
309 Relating to Small Entity (37 CFR 1.28)
310 Relating to reexamination (37 CFR 1.181-1.183)
311 For correction of inventorship for applications - no filing date (37 CFR 1.48)
312 For correction of inventorship re PCT applications (37 CFR 1.48)
313 For filing application without one or more inventors (37 CFR 1.47)
314 For filing PCT application without one or more inventors (37 CFR 1.47)
315 For extension of time without fee in cases in Application Division (37 CFR 1.136(b))
399 For matters before A/C for Patents - not specified
408 Relating to a filing date under 35 USC 1115, 37 CFR 1.53
411 Filing date for application filed by Express Mail (37 CFR 1.10)
412 Filing date for lost application
501 To revive an abandoned application - unavoidable delay (37 CFR 1.137(a))
502 To revive an abandoned application - unintentional abandonment (37 CFR 1.137(b))
503 To waive/suspend rules (37 CFR 1.183)
504 To invoke supervisory authority - re patent examining operations (37 CFR 1.181)
505 To withdraw from issue after payment of issue fee (37 CFR 1.313(b)(1-4))
506 To withdraw from issue after payment of issue fee (37 CFR 1.313(b)) or abandon application in favor of continuing application
507 To enter priority papers after issue Fee payment (37 CFR 1.55(e))
508 To defer issuance of patent (37 CFR 1.314)
515 To invoke supervisory authority - re Office of Admin. (37 CFR 1.181)
518 To waive/suspend rules re patent matters in Office of Admin. (37 CFR 1.183)
519 To decide matters before Deputy A/C for Patents under 37 CFR 1.182
521 To review refusal to accept & record maintenance fee - application filed on or after 8/27/82 (37 CFR 1.377)
523 To issue patent in the name of the Assignee (37 CFR 1.334(c))
525 To withdraw a holding of abandonment (37 CFR 1.181)
526 To order a Commissioner-initiated Reexamination proceeding (37 CFR 1.520)
527 To convert Provisional Application
528 To reinstate abandoned Provisional Application
530 PCT petition-unavoidable
531 PCT petition-unintentional
532 To accept unavoidably delayed payment of maintenance fee (37 CFR 1.378 (b))
533 To accept unintentionally delayed payment of maintenance fee (37 CFR 1.378 (c))
534 Petitions related to reexamination proceedings
599 For matters before the Deputy A/C for Patents - not specified

☒ PETITIONS DECIDED BY THE GROUP DIRECTOR

- 601 To make application special on ground of age or health (37 CFR 1.102, MPEP 708.02)
602 To make special - continuity of earlier application (37 CFR 1.102, MPEP 708.02)
603 To make special - environment quality program (37 CFR 1.102, MPEP 708.02)
604 To make special - accelerated examination (37 CFR 1.102, MPEP 708.02)
605 To make special - Energy Program (37 CFR 1.102, MPEP 708.02)
606 To make special - Recombinant DNA (37 CFR 1.102, MPEP 708.02)
607 To make special for reasons not provided for in codes 601-606 (37 CFR 1.102, MPEP 708.02)
608 To reopen prosecution after Board decision (37 CFR 1.186)
609 For review of final restriction requirement (37 CFR 1.144)
610 Invoking Authority of Commissioner under 37 CFR 1.181 not specified in codes
611 Relating to the prematurity of final rejection (37 CFR 1.181, MPEP 706.07(c))
612 Relating to the refusal to enter an amendment (37 CFR 1.181 & 1.177, MPEP 714.19)
613 To withdraw a holding of abandonment (37 CFR 1.137, MPEP 711.03)
614 Relating to requirement to cancel new matter from application (37 CFR 1.181, MPEP 608.04(c))
615 Relating to formal sufficiency/propriety of affidavits (37 CFR 1.131, 1.132, 1.608, MPEP 715.07)
616 To institute an interference (37 CFR 1.606)
617 Relating to refusal to enter an amendment under 37 CFR 1.312
618 For concurrent Ex parte and Inter partes proceedings (37 CFR 1.212)
619 For return of original oath of patent application (MPEP 604.04(a))
620 For extension of time (37 CFR 1.136(b))
621 For interview after Notice of Allowance mailed (MPEP 713.10)
622 Concerning appeal application before transfer of jurisdiction to Board (MPEP 1206)
623 For second or subsequent suspension of action (37 CFR 1.103, MPEP 709)
625 To reinstate Appeals dismissed in Group
626 From denial of reexamination request (37 CFR 515(c))
627 To enter an amendment after payment of Issue Fee (37 CFR 1.312(b))
628 From refusal to issue a Certificate of Correction (37 CFR 1.181, MPEP 1480 -1485)
629 For withdrawal of attorney from application pending in group (37 CFR 1.36)
630 For extension of time in a reexamination (37 CFR 1.55(c))
631 To merge multiple reexamination proceedings (37 CFR 1.565(c), MPEP 2283)
632 To effect a second conversion of inventorship (37 CFR 1.48, MPEP 201.03)
633 Superconductivity
634 To correct inventorship in a patent not in interference (37 CFR 1.324, MPEP 1481)
635 To change inventorship in an application (37 CFR 1.48)
636 To change inventorship in a patent (37 CFR 1.48)
637 To withdraw from issue before payment of an issue fee (37 CFR 1.313(a))
699 For matters before Group Director - not specified

☐ PETITIONS DECIDED BY BOARD OF PATENT APPEALS AND INTERFERENCES

- 701 To exercise supervisory authority re action by examiner/examiner-in-chief (37 CFR 1.644)
702 To accept belatedly filed copies of interference settlement agreements (35 USC 135(c), 37 CFR 1.666(c))
703 For withdrawal of attorney in proceeding under 37 CFR 1.201 - 1.288 (37 CFR 1.36)
704 For access to a settlement agreement under 35 USC 135(c) (37 CFR 1.666(b))
705 For access to an application in proceedings before the Board (37 CFR 1.14(e))
706 From a refusal to issue a Certificate of Correction (37 CFR 1.322, 1.323)
707 To correct errors in inventorship (37 CFR 1.324)
708 For extension of time to file amendment under 37 CFR 1.186(b) (37 CFR 1.136)
709 To make an application before the Board special (37 CFR 1.102)
710 For extension of time to file supplemental Reply Brief (37 CFR 1.136)
711 To assign particular members to hearing or to request augmented panel (35 USC 7)
712 To decide miscellaneous questions in proceedings under 37 CFR 1.601-1.688
713 To accept priority papers in applications in interference (37 CFR 1.644)
714 To reinstate an Appeal
789 For matters before Chairman of Board - not specified
801 To make an application before the Board special (37 CFR 1.102)
802 To reinstate an Appeal
803 To extend time/suspend proceedings (37 CFR 1.196, 1.197, 1.304)
804 For extension of time to file supplemental Reply Brief (37 CFR 1.136)
805 To accept late request for an Oral Hearing (37 CFR 1.136)
899 For matters before the Clerk of the Board - not specified

☐ PETITIONS DECIDED BY SPECIAL LAWS (SECURITY AND GOVERNMENT INTEREST MATTERS)

- 901 Under 42 USC 2182
902 Under 42 USC 2457
903 Under 35 USC 184
904 Under 35 USC 267
905 To consider/review security or Government interest matters - not specified

☐ PETITIONS DECIDED BY THE SOLICITOR

- 951 Petitions for extension of time in court matters 35 USC 142, 145, 146
952 Petitions relating to ex parte questions in cases before the Court of Appeals for the Federal Circuit
953 Requests filed under the Freedom of Information Act
959 Not specified

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.